IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY SEVENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GHULAM MOHAMMED

WRIT PETITION NO : 9705 of 1993

Between:

1. Karatam Peada Rayudu (died), S/o. Somaiah, Hindu, Agriculturist, Buttayagudem, W.G.District (Writ Petitioner).

2. Karatam Suryakantham, wife of Late Karatam Pedarayudu, Hindu, aged about 66 years, Agriculturist R/o. Buttayagudem, West Godavari District.

3. Thutha Varalakshmi, wife of Chakradhara Rao, Daughter of Late K. Pedarayudu, Hindu, aged about 48 years, Agriculture, R/o.Palagudem, Eluru Mandal, West Godavari District.

4. Nachu Naga Krishna Neelaveni, Wife of Somasekhar, Daughter of Late K. Pedarayudu, Hindu, aged about 42 years, Vallampatla, Via T. Narasapuram, Jangareddygudem Mandal, West Godavari District.

5. Ganta Umamaheswari, Wife of Ramakrishna, Daughter of Late K.Pedaravuyudu, Hindu, aged about 40 years, Jangareddygudem Mandal, West Godavari District.

6. Akula Subhashini, wife of China Babu,. Daughter of Late K.Pedarayudu, Hindu, aged about 38 years, Buttayagudem,West Godavari District.

(Petitioners 2 to 6 are brought on record as Legal Representatives of the deceased (writ petitioner) as per the Court order Dated 22.07.2004 in W.P.M.P.No.16401 of 2004.)

.. PETITIONERS

AND

1. The Government of Andhra Pradesh rep. by its Secretary
   Social Welfare Department Secretariat, Hyderabad
2. The Agent to Government Cum District Collector West Godavari District, Eluru.

3. The Special Deputy Collector, Tribal Welfare,
   K.Ramachandrapuram W.G.Dist
4. The Director of Settlements, Andhra Pradesh, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly one in the nature of writ of certiorari calling for the records relating to Government Memo No.16481/F/92-5, SW(F) Department, Dt.6/3/1992 and setting it aside as arbitrary, violative of the provisions of the Transfer of Property Act, and unconstitutional offending article 300-A of the Constitution of India, and consequently directing the respondents to reconsider the case of the petitioner in the light of the documents produced and the provision of Sec.53-A of the Transfer of Property Act, and to pass.

(Prayer is amended as per the Court orders dated 11.11.2004 in W.P.M.P.No.27065 of 2004)

Counsel for the Petitioner: MR.G.V.L.N.MURTHY

Counsel for the Respondent Nos.1 to 3: GP FOR SOCIAL WELFARE

The Court made the following :

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ORDER:

This writ petition has been filed by the petitioner (since deceased by L.Rs) for issuance of a Writ of Certiorari calling for the records relating to Government Memo No.1648/F/92-5, S.W (F) Department, dated 06.03.1993 and to set aside the same as being arbitrary, violative of the provisions of the Transfer of Property Act, and unconstitutional offending Article 300-A of the Constitution of India and consequently, to direct the Respondents to reconsider the case of the petitioners.

2. The facts of the case, in brief, are as follows:

The petitioner, claims to be the owner of the land in Survey No.312 of 1985 in R.S.No.426, to an extent of Ac.12-33 cents situated in Buttayagudem Village and Mandal, West Godavari District The Special Deputy Tahsildar (Tribal Welfare) K.Ramachandrapuram, seems to have filed a complaint against him before the 3rd respondent-Special Deputy Collector stating that the petitioner is in possession and enjoyment of the land in contravention of Sub Section 3 (1) of the A.P. Scheduled Areas Land Transfer Regulation, 1959. The said complaint was enquired into by the 3rd respondent-Special Deputy Collector and accordingly an order was passed to eject the petitioner from the land in question. Aggrieved by the same, the petitioner preferred appeal and revision unsuccessfully. Both the appellate and the revisional authorities held that the petitioner got the petition schedule land under an unregistered document and no ryotwari patta was granted to him and hence, he is not entitled to seek any title to the land. It was also found by both the authorities that the petitioner did not produce any evidence to show that land was purchased by him prior to 1970 and therefore, held that alleged sale transaction was hit by the Amended Regulation 1 of 1970. Hence this writ petition.

3. The claim of the petitioner is resisted by the respondents by filing counter-affidavit. It was stated that the petitioner failed to prove his continuous possession over the land in question and he did not establish his title to the land except stating that he purchased the same from his relative.

4. Heard the learned Counsel for the petitioner as well as the learned Government Pleader for Social Welfare.

5. The case of the petitioner (since deceased) was that he purchased the property in

question from the son of one P.Somayya, a near relative of the petitioner under an un-registered agreement of sale dated 05-03-1969 that too on a plain paper. However, the claim of the petitioner for issue of patta in RS.No.426 to an extent of Ac.12-33 cents situated at Buttayagudem village and mandal, West Godavari District, was rejected by the Settlement Officer, Eluru, as the petitioner did not fulfil the conditions contemplated under Section 7(1) of Regulation 2 of 1970. It was found by both the authorities that the petitioner belongs to Kapu caste and he is a non-tribal; and that when the petitioner happens to be a non-tribal, he has to establish that he has been in continuous possession of the land from the notified date under the provisions of the Estate Abolition Act, and that the possession of the land should not be void under the provisions of the A.P. Scheduled Areas Land Transfer Regulation Act, 1959 and that being a finding of fact, in the absence of pointing out anything to the contrary, the same does not warrant any interference by this Court.

6. In the Circumstances, the writ petition is meritless and it is accordingly dismissed. No costs.

27th January, 2005

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Copy to:

1. The Secretary, The Government of Andhra Pradesh,

   Social welfare Department, secretariat, Hyderabad,

   A.P.,

2. The Agent to Government-cum-District Collector,

   West Godavari District, Eluru.

3. The Special Deputy Collector,

   Tribal Welfare, K. Ramachandrapuram,

   West Godavari District.

4. The Director of Settlements,

   Andhra Pradesh, Hyderabad.

5. Two Copies to the Government Pleader for Social Welfare, High Court Buildings, High Court of A.P., Hyderabad. (O.U.T.)

6. Two C.D. copies.